

CAROLYN HUNT COTTRELL, SBN 166977  
ccottrell@schneiderwallace.com  
KYLE G. BATES, SBN 299114  
kbates@schneiderwallace.com  
KRISTABEL SANDOVAL, SBN 323714  
ksandoval@schneiderwallace.com  
SCHNEIDER WALLACE  
COTTRELL KONECKY LLP  
2000 Powell Street, Suite 1400  
Emeryville, CA 94608  
Telephone: 415.421.7100  
Facsimile: 415.421.7105

Attorneys for Plaintiff  
and those similarly situated

RACHEL S. BRASS, SBN 219301  
rbrass@gibsondunn.com  
JOSEPH R. ROSE, SBN 279092  
jrose@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
555 Mission Street, Suite 3000  
San Francisco, CA 94105-0921  
Telephone: 415.393.8200  
Facsimile: 415.393.8306  
  
Attorneys for Defendant  
UNITED PARCEL SERVICE, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DESDNIE HESS, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

UNITED PARCEL SERVICE, INC., an Ohio  
corporation,

Defendant.

CASE NO. 3:21-CV-00093-WHA

**STIPULATION AND ~~PROPOSED~~ ORDER  
RE COMMUNICATIONS WITH PUTATIVE  
CLASS MEMBERS**

Action Filed: October 30, 2020

1 This Stipulation and Proposed Order re Communications with Putative Class Members is  
2 entered into between Plaintiff Desdnie Hess (“Plaintiff”) and Defendant United Parcel Service, Inc.  
3 (“UPS”) (together, the “Parties”) pursuant to the Court’s January 22, 2021 Notice and Order re  
4 Putative Class Actions and Factors to be Evaluated for any Proposed Class Settlement and Protocol  
5 for Interviewing Putative Class Members (Dkt. 15). The Parties stipulate as follows:

6 1. This protocol shall apply to communications by counsel or the Parties (or anyone  
7 acting at their direction) to non-management putative class members related to such putative class  
8 members’ participation in this litigation or submission of declarations in this litigation (“Subject  
9 Communications”). Subject Communications shall not include: (1) communications made to UPS’s  
10 current or former employees (including putative class members) to the extent those communications  
11 are part of the normal course of UPS’s business or are not related to putative class members’  
12 participation in or submission of declarations in this litigation, regardless of whether the subject  
13 matter overlaps with Plaintiff’s claims; or (2) communications made to current or former UPS  
14 managers.

15 2. Subject Communications shall not take place until 21 days after the Court has ruled on  
16 any motions to dismiss and UPS has filed its Answer (if any).

17 3. Subject Communications that do not comply with the terms of this Order may not be  
18 cited or used as evidence in this litigation.

19 4. Counsel and the Parties must refrain from making coercive or misleading  
20 communications to putative class members. Subject Communications must provide a description of  
21 the claims in the underlying litigation and the role of the communicating party in the litigation  
22 sufficient to explain the context and purpose of the communication. This explanation must advise the  
23 putative class member of the following:

- 24 a. The purpose of a communication by Plaintiff or its counsel is to assist in investigating  
25 and/or prosecuting the claims in the litigation;  
26 b. The purpose of a communication by UPS or its counsel is to assist in investigating  
27 and/or defending against the claims in the litigation;  
28

- 1 c. Participation in such communication by the putative class member is completely  
2 voluntary;
- 3 d. The putative class member cannot be retaliated against by Plaintiff or UPS for refusing  
4 to communicate, for answering questions truthfully, or refusing to answer questions;
- 5 e. The putative class member cannot receive monetary compensation or other benefits  
6 from any party for agreeing to communicate or give certain answers to a question;
- 7 f. The information obtained from the putative class member may be used as evidence: (i)  
8 by Plaintiff to certify a proposed class and/or bolster the claims in this lawsuit; or (ii)  
9 by UPS to defeat class certification and/or defeat the underlying claims in this lawsuit.

10 5. Counsel may communicate with a member of the putative class without notice to or  
11 permission from opposing counsel, unless opposing counsel has provided written notice by email of  
12 their representation of the particular putative class member in question.

13 6. No member of the putative class shall be retaliated against in any way for their  
14 participation or unwillingness to participate in the communications identified in Paragraph 1.

15 **IT IS SO STIPULATED.**

16  
17 Dated: April 1, 2021

GIBSON, DUNN & CRUTCHER LLP

18  
19 By: /s/ Joseph R. Rose  
20 Joseph R. Rose

21 Attorneys for Defendant  
22 UNITED PARCEL SERVICE, INC.

23 Dated: April 1, 2021

SCHNEIDER WALLACE COTTRELL  
24 KONECKY, LLP

25  
26 By: /s/ Kyle G. Bates  
27 Kyle G. Bates

28 Attorneys for Plaintiff DESDNIE HESS

**SIGNATURE ATTESTATION**

I, Joseph R. Rose, hereby attest that concurrence in the filing of this document has been obtained from the above signatories.

Dated: April 1, 2021


GIBSON, DUNN & CRUTCHER LLP

By: /s/ Joseph R. Rose  
Joseph R. Rose

Attorneys for Defendant  
UNITED PARCEL SERVICE, INC.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: April 8, 2021

By:   
Hon. William H. Alsup  
United States District Judge